

Opinion No. 119.**Superintendent of Banks—Federal Home Loan Bank—Banking Department—Building and Loan Associations, borrowing by.**

Held: Building and loan associations may not borrow from the Federal Home Loan Bank without the consent of the Superintendent of Banks of the State of Montana.

September 8, 1943.

Mr. W. A. Brown
Superintendent of Banks
State Banking Department
State Capitol
Helena, Montana

Dear Mr. Brown:

You have asked this office, if under the provisions of Chapter 164, Laws of 1943, building and loan associations may borrow from the Federal Home Loan Bank without the consent of the Superintendent of Banks of the State of Montana.

Chapter 164, Laws of 1943, amended Subdivision 12 of Section 6355.13, Revised Codes of Montana, 1935, a section relating to the powers and duties of

building and loan associations. It empowers such associations to borrow money (only when necessary) not exceeding twenty per cent (20%) of their assets, except when borrowing from the Federal Home Loan Bank. As part of the same sentence which grants such power, the legislature went on to say:

“ . . . provided, that the assets and securities of an association shall not be pledged or hypothecated to secure its borrowed money or for any other purpose, without the consent of the superintendent of banks . . . ”

Chapter 164 also provides the Superintendent of Banks may authorize pledging or hypothecation of assets in order to secure funds—but the margin of security pledged shall not exceed twenty-five per cent (25%) of the funds so borrowed except when funds are borrowed from the Federal Home Loan Bank.

The only thing the legislative assembly has done in Chapter 164 is provide the percentage limitations imposed upon building and loan associations in borrowing money and in pledging assets to secure such funds shall not apply when the associations are borrowing from the Federal Home Loan Bank. The assembly has nowhere said the consent of the Superintendent of Banks shall not be required when a building and loan association borrows from the Federal Home Loan Bank.

Hence, it is my opinion building and loan associations may not borrow from the Federal Home Loan Bank without the consent of the Superintendent of Banks of the State of Montana.

Sincerely yours,
R. V. BOTTOMLY
Attorney General